



ORDINANCE NO. 5981

AN ORDINANCE PROCLAIMING ANNEXATION OF A PROPERTY IDENTIFIED ON LINN COUNTY ASSESSOR'S MAP NO. 11S-03W-29 AS TAX LOT 401; AND AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP BY AMENDING THE ALBANY ZONING MAP AND ADOPTING FINDINGS OF FACT AND CONCLUSIONS.

WHEREAS, on March 7, 2022, the Albany Community Development Department received an application for annexation with concurrent zoning map amendment for a 20-acre parcel located at 823 Ellingson Road SE (Planning Files AN-02-22 and ZC-03-22); and

WHEREAS, the application for zoning map amendment would assign a Single-Family Residential (RS-5) zone and Residential Medium Density (RM) zone to this property, concurrent with annexation. Prior to annexation, the property was subject to Linn County zoning and related development requirements. The Albany RS-5 zone has an average minimum lot size of 5,000 square feet and the RM zone has an average minimum lot size of 3,500 square feet; and

WHEREAS, on June 20, 2022, the Albany Planning Commission held a public hearing, considered public testimony, deliberated on the proposed annexation with zoning map amendment, and recommended approval of the proposal based on evidence presented in the staff report and during the public hearing; and

WHEREAS, the analysis and findings of fact and conclusions as provided in the staff report dated June 6, 2022, are presented as an attachment to this ordinance as Exhibit C; and

WHEREAS, on July 13, 2022, the Albany City Council held a public hearing on the proposal, reviewed the findings of fact and conclusions of the staff report and testimony presented at the public hearing, and then deliberated.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The territory shown on the map in Exhibit A and described in Exhibit B of this ordinance is hereby proclaimed to be annexed to the City of Albany.

Section 2: The zoning district map is hereby amended to the RS-5 zoning district and the RM zoning district for the property located in the City of Albany, Linn County, Oregon, as shown on the map in Exhibit A and described in Exhibit B of this ordinance.

Section 3: The findings of fact and conclusions included in the staff report dated June 6, 2022, in Exhibit C of this ordinance, are hereby adopted in support of the decision.


Section 4: A copy of this ordinance shall be filed in the Office of the City Clerk of the City of Albany and these changes shall be made on the official City of Albany zoning map.

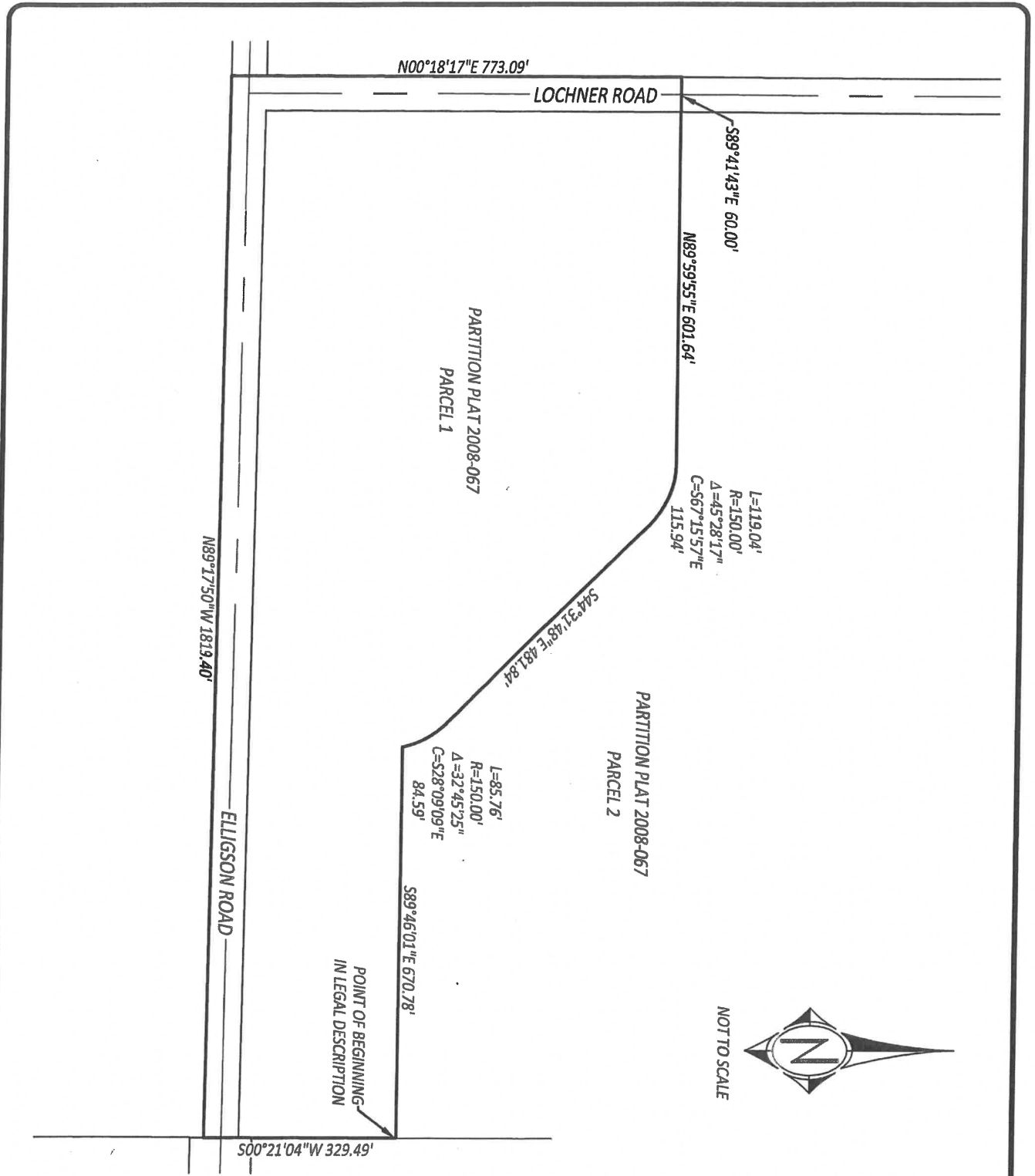
Passed by the Council: July 13, 2022

Approved by the Mayor: July 13, 2022

Effective Date: August 12, 2022

  
\_\_\_\_\_  
Mayor

ATTEST:  
  
Allison R. Lasse  
\_\_\_\_\_  
City Clerk



PDG JOB NO.: 384-003      DATE: 02/28/22      SCALE: NTS



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**EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION**

**ANNEXATION PROPERTY EXHIBIT**  
PARCEL 1 OF PARTITION PLAT NO. 2008-067 TOGETHER  
WITH PORTIONS OF LOCHNER ROAD AND ELLIGSON ROAD  
LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, AND  
IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 11 SOUTH,  
RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON

**CURRY PROPERTY ANNEXATION  
LEGAL DESCRIPTION**

PARCEL 1 OF PARTITION PLAT NO. 2008-067, TOGETHER WITH PORTIONS OF LOCHNER ROAD AND ELLINGSON ROAD AND LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, AND IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 11 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 1;

THENCE SOUTH 00°21'04" WEST ALONG THE EAST LINE OF SAID PARCEL 1 AND THE SOUTHERLY EXTENSION THEREOF, 329.49 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF ELLINGSON ROAD;

THENCE NORTH 89°17'50" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF ELLINGSON ROAD, 1819.40 FEET TO THE SOUTHERLY PROJECTION OF THE WEST RIGHT-OF-WAY LINE OF LOCHNER ROAD;

THENCE NORTH 00°18'17" EAST ALONG THE WEST RIGHT-OF-WAY OF LOCHNER ROAD AND THE SOUTHERLY PROJECTION THEREOF, 773.09 FEET;

THENCE LEAVING SAID WEST RIGHT-OF-WAY LINE, SOUTH 89°41'43" EAST, 60.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 1, SAID CORNER LOCATED ON THE EAST RIGHT-OF-WAY LINE OF LOCHNER ROAD;

THENCE ALONG THE NORTHERLY BOUNDARY OF SAID PARCEL 1 THE FOLLOWING (5) COURSES:

NORTH 89°59'55" EAST, 601.64 FEET TO A POINT OF CURVATURE;

THENCE 119.04 FEET ALONG THE ARC OF A 150.00 FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 45°28'17" AND A CHORD BEARING SOUTH 67°15'57" EAST, 115.94 FEET;

THENCE SOUTH 44°31'48" EAST, 481.84 FEET TO A POINT OF CURVATURE;

THENCE 85.76 FEET ALONG THE ARC OF A 150.00 FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 32°45'25" AND A CHORD BEARING SOUTH 28°09'09" EAST, 84.59 FEET;

THENCE NON-TANGENT TO SAID CURVE, SOUTH 89°46'01" EAST, 670.78 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 1 AND THE POINT OF BEGINNING.

CONTAINING APPROXIMATELY 23.468 ACRES.



## COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

# Staff Report

## Annexation with Zoning Map Amendment

AN-02-22 and ZC-03-22

June 6, 2022

Review Body: **Planning Commission**

Hearing Date and Time: **Monday, June 13, 2022, at 5:15 p.m.**

Hearing Location: Council Chambers, Albany City Hall, 333 Broadalbin Street SW

Virtual Option: At 5:15 p.m., join the meeting using the link below:  
<https://council.cityofalbany.net/groups/plc/zoom>

Phone: 1-253-215-8782; meeting id: 837-8633-4863; passcode: 464432

In-person: Appear in person at the meeting and register to speak using the sign-up sheet.

Review Body: **City Council**

Hearing Date and Time: **Wednesday, July 13, 2022, at 6:00 p.m.**

Hearing Location: Council Chambers, Albany City Hall, 333 Broadalbin Street SW

Virtual Option:  
 To testify, please email [cdaa@cityofalbany.net](mailto:cdaa@cityofalbany.net) by **noon the day of the meeting** with your name, address, phone number, and if you are speaking for, against, or neutral on the topic.

In-person: Appear in person at the meeting and register to speak using the sign-up sheet.

Watch Livestream at 6:00 p.m.: <http://www.cityofalbany.net/livestream>

### Summary

The application is a request to annex a 20-acre parcel north of Ellingson Road, northeast of the Ellingson Road and Lochner Road intersection (Attachment A). The subject property is identified on Linn County Tax Assessor's Map No. 11S-03W-29; Tax Lot 401 and addressed 823 Ellingson Road SE. This property is eligible for annexation as it is contiguous to the current city limits, located within the Albany Urban Growth Boundary (UGB), and public services will soon be available to serve the property.

The zone map will be amended to the Residential Single-Family (RS-5) zone and Medium Density Residential (RM) zone, concurrent with annexation and in accordance with the Albany Comprehensive Plan and South Albany Area Plan (SAAP). Prior to annexation, the subject property was subject to the Linn County zoning and related development requirements, under the Linn County Urban Growth Area – Urban Growth Management 20-acre minimum (UGA-UGM-20). The proposed RS-5 and RM zones will ensure the development potential is known, and the property is subject to the applicable City development regulations.

The proposed RS-5 and RM zoning districts are consistent with the long-range land use designations that are planned for the subject property because the Comprehensive Plan Map designation for the property is Urban



Residential Reserve (URR). The subject property is also located within the boundary of the SAAP, which calls for a low- and medium-density residential pattern already established in the vicinity of the parcel.

With the annexation, the subject property will also be removed from the taxing district of the Albany Rural Fire Protection District (ARFPD). Public notice will publish prior to the city council public hearing, in accordance with Oregon Revised Statutes (ORS) 222.524.

The criteria for annexation are found in ADC 2.110, and the criteria for amending a zoning map are found in ADC 2.740. These criteria are addressed in the staff report and must be satisfied to grant approval for this application.

As shown in this report, the proposal satisfies all applicable review criteria; therefore, the staff recommendation for the proposal is to grant APPROVAL.

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## Application Information

Proposal:	Annexation of 20-acre parcel with concurrent Zone Map Amendment from UGA-UGM-20 to RS-5 and RM for future development.
Review Body:	Planning Commission and City Council
Report Prepared By:	David Martineau, project planner
Property Owner:	Chad Curry; PO Box 604, Albany, OR 97321
Applicant:	Roseann Johnson; Lennar Northwest, LLC 11807 NE 99th Street, Suite 1170, Vancouver, WA 98682
Applicant Representative:	Wayne Hayson, Planning Manager; Pioneer Design Group, Inc. 9020 SW Washington Square Drive, Suite 170, Portland, OR 97223
Address/Location:	823 Ellingson Road SE; located on the northeast side of the intersection of Ellingson Road and Lochner Road.
Map/Tax Lot:	Linn County Assessor's Map No. 11S-03W-29; Tax Lot 401
Zoning:	Urban Growth Area – Urban Growth Management 20-acre minimum (UGA-UGM-20)
Comprehensive Plan:	Urban Residential Reserve (URR)
Acres:	20 acres
Existing Land Use:	Agricultural; Manufactured Home
Neighborhood:	South Albany
Surrounding Zoning:	North: UGA-UGM-20 South: Linn County Urban Growth Area – Urban Growth Management 5-acre minimum (UGA-UGM-5) East: RS-5 West: UGA-UGM-20
Surrounding Uses:	North: Agriculture South: Agriculture, Rural Residential East: Single-Family Residential Under Development West: Agriculture
Prior History:	None.

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## Review Process and Appeals

The proposal for annexation concurrent with zoning map amendment is processed through a Type IV legislative and quasi-judicial land use review process. The planning commission will hold a public hearing to consider proposed amendments and will make a recommendation to the city council. The city council will hold

a subsequent public hearing to consider the proposed applications. After closing the public hearing, the city council will deliberate and make a final decision.

Within five days of the city council's final decision on this application, the Community Development Director will provide written notice of decision to the applicant and any other parties entitled to notice. The city council's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a notice of intent to appeal not later than 21 days after the notice of decision is mailed [ADC 1.250(8) and (9)].

## Public Notice

Public notice was provided in accordance with Type IV legislative and quasi-judicial procedures. Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on May 16, 2022, prior to the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and ADC 1.250(4) and 1.260(2).

A public notice was mailed to surrounding property owners within 300 feet of the subject property on May 23, 2022, in accordance with ADC 1.250(3) and ADC 1.260(2). A public notice was posted on the property by June 6, 2022, in accordance with ADC 1.410. Notice of the public hearings was published in the *Albany Democrat-Herald* on June 3, and June 10, 2022, in accordance with ADC 1.250(4) and 1.260(2).

The staff report for the proposed annexation with concurrent zoning map amendment was posted on the City's website on June 6, 2022, at least seven days before the first evidentiary public hearing. At the time this report was published, the Albany Planning Division had not received any written comments regarding the proposed project.

## Analysis of Development Code Criteria

The ADC includes the following review criteria, which must be met for this application to be approved. Code criteria are written in **bold** followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

### Annexation (ADC 2.110)

***The review body shall make a quasi-judicial land use decision as to whether the proposed annexation complies with all of the following criteria:***

#### Criteria 1

***Eligibility Criteria: The City shall determine that property is eligible for annexation based on the following criteria:***

- (a) ***The property is contiguous to the existing city limits; and***
- (b) ***The property is located within the Albany Urban Growth Boundary as established by the Albany Comprehensive Plan.***

#### Findings of Fact

- 1.1 The proposed annexation is a 20-acre parcel north of Ellingson Road, northeast of the Lochner Road and Ellingson Road intersection, as well as the abutting Ellingson Road SE right-of-way. The subject property is identified as Linn County Assessor's Map No. 11S-03W-29; Tax Lot 401 and addressed 823 Ellingson Road SE (Attachment A).
- 1.2 The subject property is contiguous to the current city limits to the east. The property is currently under the jurisdiction of Linn County and designated as UGA-UGM-20.
- 1.3 The subject property is located within the Albany UGB and designated on the Comprehensive Plan Map designation as URR (Attachment B).

#### Conclusions

- 1.1 The subject property is contiguous to the existing Albany city limits and located within the UGB as established by the Albany Comprehensive Plan.
- 1.2 The subject property is eligible for annexation and these criteria are satisfied.

## Criteria 2

***Infrastructure Criteria:*** *The City shall determine that it is timely to annex property based on the following criterion:*

- (a) *An adequate level of urban services and infrastructure is available or will be made available in a timely manner.*
- (b) *As used in this section:*
  - i. *“Adequate level” means conforms to adopted plans and ordinances.*
  - ii. *“Urban services” means police, fire, and other City-provided services.*
  - iii. *“Infrastructure” means sanitary sewer, water, storm drainage, and streets.*
  - iv. *“Be made available in a timely manner” means that improvements needed for an adequate level of urban services and infrastructure will be provided at the time and place needed to serve the anticipated development. Improvements may be secured by a development agreement, annexation agreement, or other funding mechanism that will place the primary economic burden on the territory proposed for annexation and not on the City of Albany generally.*

## Findings of Fact

- 2.1 Fire: Adequate public water and access for fire protection is available for this area. There are properties to the east that are currently being served by the Albany Fire Department. Fire service to this property would be a logical expansion of the current service boundaries. With the annexation, the subject property will be removed from the taxing district of the ARFPD.
- 2.2 Police: There are properties to the east that are currently being served by the Albany Police Department. Police service to this property would be a logical expansion of the current service boundaries.
- 2.3 Sanitary Sewer: City utility maps show no public sanitary sewer facilities adjacent to the subject property. The nearest sewer that can be extended to serve the property is approximately 2,100 feet west of the site in Ellingson Road SE. The public sewer east of the site serves a different sewer basin and is not intended to serve this property.
- 2.4 Future development on the subject property will require public sanitary sewer facilities be available to each lot proposed in a development. This will necessitate the public sewer in Ellingson Road, west of the subject property, be extended easterly approximately 4,000 feet to the easternmost boundary of the subject property.
- 2.5 The City’s Wastewater Collection Facility Plan calls for oversized piping in Ellingson Road SE. The existing main in Ellingson Road, west of the site, is a 24-inch diameter line. It is anticipated the extension of this main to the east will be a 10-inch diameter line.
- 2.6 Water: City utility maps show no public water facilities adjacent to the subject property. The nearest water facilities are being constructed in Ellingson Road to the east boundary of the site. These water facilities have not yet been accepted by the City as public. It is expected that the utilities being constructed for the development to the east will be accepted as public within the next few months.
- 2.7 Future development on the subject property will require that public water facilities be available to each lot proposed in a development. This will necessitate the public water in Ellingson Road, east of the subject property, be extended westerly approximately 1,800 feet to the westernmost boundary of the subject property.
- 2.8 The City’s Water Facility Plan calls for oversized piping in Ellingson Road SE. The existing main in Ellingson Road, west of the site, is a 24-inch diameter line and the main east of the site is a 16-inch diameter line. It is anticipated the extension of the 16-inch main from the east will remain a 16-inch diameter line at least to Lochner Road at the northwest corner of the subject property.
- 2.9 Storm Drainage: City utility maps show no piped public storm drainage improvements in Ellingson Road SE along the subject property’s frontage. Ellingson Road SE, in this area, is not

- improved to City standards, as it lacks curb, gutters, and piped storm drainage.
- 2.10 Future development on the subject property will require Ellingson Road SE be improved to City standards with curb, gutter, and public storm drainage facilities. Upon development of the site, the developer must submit a drainage study showing how stormwater runoff from this area will be accommodated by improvements to the property and Ellingson Road SE. This study will help determine what type of storm drainage improvements will be needed for a development on this site.
  - 2.11 **Transportation Infrastructure:** The proposed annexation is a 20-acre parcel northeast of the Lochner Road and Ellingson Road intersection. The site's southern boundary adjoins Ellingson Road SE. Ellingson Road SE is classified as a principal arterial and unimproved along the property's south frontage, except for two paved travel lanes. A condition to improve curb, gutter, and sidewalk along the site's south frontage can be applied to a future development proposal for the site.
  - 2.12 Albany's Transportation System Plan (TSP) assumed this site would be annexed into the City and developed with low- to medium-density residential uses. The TSP does not identify any street improvements internal to this site.

### Conclusions

- 2.1 Police and Fire services are currently available to serve the property proposed for annexation.
- 2.2 No public utilities (sanitary sewer, water, storm drainage) exist adjacent to the subject property.
- 2.3 Future development of the subject property will necessitate all public utilities be extended/constructed along the property's Ellingson Road SE frontage, and within the site as needed, to provide utility services to the proposed development.
- 2.4 Utility extensions needed to serve the subject property may require off-site improvements and oversized piping to be installed to satisfy the recommendations of the various facilities plans.
- 2.5 The area proposed for annexation adjoins a principal arterial street that requires an improvement of curb, gutter, and sidewalk along the site's south frontage. Any future development application on the site can be conditioned to require street dedication and installation of improvements.
- 2.6 Albany's TSP was developed with the assumption that this site would develop with residential uses and does not identify any transportation related improvements occurring within the interior of the site.
- 2.7 The transportation system can support development of the site.
- 2.8 This criterion is satisfied without conditions.

### Criteria 3

***Planning Criteria: The City shall determine that adequate planning has occurred based on the following criterion:***

***Sufficient planning and engineering data have been provided, and necessary studies and reviews have been completed such that there are no significant unresolved issues regarding appropriate Comprehensive Plan and implementing ordinances. Examples of needed studies may include public infrastructure plans, buildable lands inventories, area refinement plans, or any task in an approved work program for Periodic Review.***

### Findings of Fact

- 3.1 The proposed annexation is a 20-acre parcel to the north of Ellingson Road, northeast of the Lochner Road and Ellingson Road intersection. The Comprehensive Plan Map designation for the subject property is URR. The proposed includes a concurrent request to apply a City of Albany zoning district of RS-5 and RM, which are consistent with the URR plan map designation.
- 3.2 The site is also located within the SAAP planning area, and the SAAP was adopted as part of the Comprehensive Plan. The SAAP shows the area as planned for low- and medium-density residential development. The proposed RS-5 and RM zones are consistent with the SAAP land use designation.
- 3.3 Public infrastructure facility plans that deal with this area include the City's Capital Improvement



Program, Water Facility Plan, Wastewater Facility Plan, Storm Drainage Master Plan, and the Transportation System Plan.

- 3.4 Public facilities that would be required to serve future development on the subject property are available at or near the site. As discussed under Criterion Two (above), an adequate level of urban services and infrastructure are available to serve the subject property; those findings are included herein by reference.

### Conclusions

- 3.1 Long range planning has been conducted for the region of the subject property. These plans include various public facilities plans, the SAAP, and the Albany Comprehensive Plan.
- 3.2 As discussed under Criterion Two, an adequate level of urban services and infrastructure are available to serve the subject property.
- 3.3 Low- to medium-density residential development under the proposed RS-5 and RM zonings are consistent with the Comprehensive Plan.
- 3.4 This criterion is satisfied.

### Criteria 4

***Reasonableness: The city council shall determine that the proposed annexation is reasonable.***

### Findings of Fact

- 4.1 The subject property abuts the existing city limits and the property proposed for annexation lies within the UGB. Because the property proposed for annexation is within the UGB, the area is intended to be served by City services.
- 4.2 An adequate level of urban services and infrastructure is currently available to serve the property proposed for annexation.
- 4.3 The annexation is requested by the property owner and applicant.
- 4.4 The proposed annexation is consistent with the SAAP of the Comprehensive Plan.

### Conclusions

- 4.1 The proposed annexation is reasonable because the property abuts the city limits, it is located within the UGB, it can be served by City services and infrastructure, and it is consistent with the Comprehensive Plan.
- 4.2 This criterion is satisfied.

### Zoning Map Amendments (ADC 2.740)

***Zoning Map amendments will be approved if the council finds that the applicant has shown that all of the following criteria are met.***

#### Criterion 1

***The proposed base zone is consistent with the Comprehensive Plan Map Designation for the entire subject area unless a Plan map amendment has also been applied for.***

#### Findings of Fact

- 1.1 The proposed annexation is a 20-acre parcel north of Ellingson Road, northeast of the Lochner Road and Ellingson Road intersection. The subject property is identified as a portion of Linn County Assessor's Map No. 11S-03W-29; Tax Lot 401 and addressed 823 Ellingson Road SE.
- 1.2 The subject property is currently under Linn County zoning as UGA-UGM-20.
- 1.3 The proposal is for a zoning map amendment from the UGA-UGM-20 to the Albany's RS-5 and RM zoning districts, concurrent with annexation. The annexation criteria are addressed earlier in this report; those findings are included here by reference.

- 1.4 The Comprehensive Plan Map designation for the property is URR. The subject property is also located within the boundary of the SAAP, which calls for a low- to medium-density residential pattern already established in the vicinity of the parcel.
- 1.5 As shown on the Plan designation Zoning Matrix (ADC 2.760, Table 2-1), the RS-5 and RM zoning districts are consistent with the URR Comprehensive Plan Map designation. In addition, the RS-5 and RM zoning districts are compatible with the low- to medium-density land use planned for the area in the SAAP.

### Conclusion

- 1.1 The proposed RS-5 and RM zones are consistent with the Comprehensive Plan Map designation and the long-range land use designations that are planned for the subject property.
- 1.2 This criterion is satisfied.

### Criterion 2

***Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation.***

#### Findings of Fact

- 2.1 This criterion is addressed under Criterion Two of the Annexation review criteria; those findings and conclusions are included here by reference.
- 2.2 The transportation system can support residential development of the site as permitted under the proposed RS-5 and RM zoning districts.

#### Conclusions

- 2.1 Existing or anticipated transportation facilities are adequate for the proposed RS-5 and RM zoning districts.
- 2.2 This criterion is satisfied.

### Criterion 3

***Existing or anticipated services (water, sanitary sewers, storm sewers, schools, and police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.***

#### Findings of Fact

- 3.1 This criterion is addressed under Criterion Two of the Annexation review criteria; those findings and conclusions are included here by reference.
- 3.2 Public services and infrastructure are available to accommodate potential residential development of the site, as permitted under the proposed RS-5 and RM zoning districts.
- 3.3 Any specific infrastructure requirements for future development would be determined at the time of land use application for the development.
- 3.4 The proposed zoning of the property to RS-5 and RM zoning districts would allow for single-family development up to 25 units per acre. The Greater Albany School District was informed of the proposed amendment, and no comments were received as of the time this staff report was published.

#### Conclusions

- 3.1 Public services and utilities (sanitary sewer, water, and storm drainage) are adequate to serve potential development on the subject property under the proposed RS-5 and RM zoning districts.
- 3.2 This criterion is satisfied.

### Criterion 4

***The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.***

## Findings of Fact

- 4.1 The current zone of the subject property is Linn County UGA-UGM-20, and the proposed zone for the property is the Albany RS-5 and RM zoning districts.
- 4.2 According to ADC 3.020(4)(5), the RS-5 zoning district is “intended primarily for low- to moderate-density single-family development.” The RM zoning district is “primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers.” The intent and purpose of the RS-5 and RM zoning districts are consistent with URR Comprehensive Plan Map designation and with the low- to medium-density land use planned for the area in the SAAP.
- 4.3 The following Comprehensive Plan goals and policies are relevant in considering whether the proposed RS-5 and RM zoning designation “best satisfies” the goals and policies of the Comprehensive Plan. Each of the relevant goals and policies are listed below in bold italic print.

### **Statewide Planning Goal 1: Citizen Involvement (Chapter 9)**

***Goal: Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process.***

***Policy 2: When making land use and other planning decisions:***

- a. Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.***
- b. Utilize all criteria relevant to the issue.***
- c. Ensure the long-range interests of the general public are considered.***
- d. Give particular attention to input provided by the public.***
- e. Where opposing viewpoints are expressed, attempt to reach consensus where possible.***

***Policy 3: Involve the general public in the use, evaluation, and periodic review and update of the Albany Comprehensive Plan.***

***Policy 4: Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.***

- 4.4 The ADC sets forth provisions for citizen involvement at public hearings before the planning commission and city council. In accordance with the Type IV legislative and quasi-judicial process for a zoning map amendment, notice was mailed to surrounding property owners within 300 feet of the subject site and affected government agencies. Notice of the public hearings was also posted on the subject property and published in the *Albany Democrat-Herald*. People who are notified of the public hearings are invited to submit comments or questions about the application prior to or at the hearing.
- 4.5 At the public hearing, the application is reviewed based on all criteria relevant to the proposal. The public hearing provides the opportunity for people to express their opinion about the proposed changes, and where opposing viewpoints are expressed, to try to reach consensus. The planning commission and city council facilitate this process at the public hearings. Based on these provisions, citizens have ample opportunity to review and comment on the proposed zoning map amendment.

### **Statewide Planning Goal 2: Land Use Planning-Land Use Designations (Chapter 9)**

***To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.***

- 4.6 According to the Albany Comprehensive Plan, “The relationship of the Plan designations to the zoning districts is summarized graphically in the ‘Plan Designation Zoning Matrix.’ This matrix is for determining the compatibility of a particular zoning district with any given Plan designation. The matrix shows what zoning districts are compatible with each Plan designation.” The URR Comprehensive Plan Map designation includes the RS-5 and RM zoning districts.

**Statewide Planning Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources (Chapter 1)**

*Goal: Protect wetlands to ensure their continued contribution as natural areas, open space, wildlife and vegetative habitat, and storm water retention and conveyance.*

*Policy 1: Protect and enhance wetlands adopted as significant in the Local Wetland Inventory.*

*Policy 2: Prohibit development within significant wetlands except for planned public utilities and infrastructure.*

*Policy 3: Within the city limits, wetlands within a floodway or significant riparian corridor shall receive protection and any development proposed shall not degrade the resource.*

- 4.7 The proposed rezone is for a 20-acre parcel north of Ellingson Road, northeast of Lochner Road and Ellingson Road intersection. Oak Creek transverses the subject property from the south to northwest.
- 4.8 The Comprehensive Plan goals and policies for protection of natural resources are implemented through Article 6 of the ADC through discretionary standards or clear and objective development standards. Future development of the site under the proposed RS-5 and RM zones will require land use review, which will include evaluation of impacts to natural resource overlays. As such, future development can be conditioned to avoid impacts to significant natural resources through application of the ADC.
- 4.9 The subject property also contains non-significant, local wetlands that are regulated by the Oregon Department of State Lands (DSL). If impact to these wetlands occur in the future, a permit from DSL will be required before development could occur.
- 4.10 According to FEMA FIRM Panel No. 41043C0529G, dated September 29, 2010, the subject property is entirely within Zone X, outside of the Special Flood Hazard Area.

**Statewide Planning Goal 10: Housing (Chapter 4)**

*Goal 1: Provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens.*

*Goal 2: Create a city of diverse neighborhoods where residents can find and afford the values they seek.*

*Policy 1: Ensure an adequate supply of residentially zoned land in areas accessible to employment and public services.*

*Policy 2: Provide a variety of choices regarding type, location, density and cost of housing units corresponding to the needs and means of city residents.*

*Policy 6: Encourage residential development on already serviced vacant residential lots or in areas where services are available or can be economically provided.*

*Policy 7: Require residential densities to be commensurate with the availability and adequacy of public facilities and services.*

- 4.11 As discussed under Annexation Criterion Two, the subject property is located in an area accessible to employment and public services. All City services are available to serve residential development on the subject property; those findings and conclusions are included here by reference.
- 4.12 The proposed zone change to RS-5 and RM is the type of zoning anticipated by the Comprehensive Plan. ADC 2.760 states RS-5 and RM zoning districts are compatible zoning district for the URR Comprehensive Plan Map land use designation; therefore, the zoning map amendment from UGA-UGM-20 to RS-5 and RM is consistent with applicable housing policies of the Comprehensive Plan. The City's vision was refined in the SAAP, which shows the area as appropriate for low- to medium-density residential development. The RS-5 and RM zones are consistent with the low- to medium-density residential development pattern envisioned for this site by the SAAP; therefore, the zoning map amendment from UGA-UGM-20 to RS-5 and RM zones are consistent with applicable housing policies of the Comprehensive Plan.

- 4.13 In 2019, the City conducted a buildable lands inventory and prepared a Housing Needs Analysis to better understand its capacity for residential growth within city limits and the UGB to 2040. As shown in Chapter 4, Figure 6.4 of the Comprehensive Plan, there is a forecasted deficit of 269 units and 25 acres of medium-density land within the city limits for new middle housing types. As proposed, the zone designation of RS-5 and RM would increase the amount of buildable land supply for development of medium density residential housing.

**Statewide Planning Goal 14: Urbanization (Chapter 8)**

***Goal 1: Achieve stable land use growth which results in a desirable and efficient land use pattern.***

***Policy 1: Encourage urban level development to locate within the city limits of the Albany Urban Growth Boundary, unless such development can occur under annexation procedures (such as consent, delayed, and contract annexations).***

***Policy 2: Discourage low-density sprawl development within the unincorporated portion of the Urban Growth Boundary that cannot be converted to urban uses when urban services become available.***

***Policy 3: Since the undeveloped portions of the urban fringe are in transition from rural to urban uses, development in these areas shall occur in a manner consistent with the City of Albany and Linn and Benton Counties' Comprehensive Plans and implementing ordinances.***

***Policy 8: Require annexations to be logical and efficient extensions of city limit boundaries to facilitate the economic provision of services.***

- 4.14 Goal 14 requires the City to forecast future growth needs and establish an urban growth boundary to separate land needed for urbanization from rural land. Goal 14 further states "land within the boundaries separating urbanizable land from rural land shall be considered available over time for urban uses." The subject property is located within the UBG and within the SAAP study area.
- 4.15 Public facilities that would be required to serve future development on the subject property are available at or near the site. Connection charges for sanitary sewer, water, and storm drainage will be due when development occurs.
- 4.16 The proposed RS-5 and RM zones will ensure development potential is known, and the property is subject to the applicable City development regulations. By annexing, land can be developed more intensely in this case allowing for residential development at urban-level densities, discouraging low-density sprawl, and supporting the logical and efficient extension of public facilities and City services consistent with Comprehensive Plan Policies 1, 2, 3, and 8.

**Statewide Planning Goal 14: Urbanization South Albany Area Plan (Chapter 8)**

***Policy 3: South Albany's overall land use pattern of residential, employment, and open space areas shall be generally consistent with the Organizational Framework:***



- 4.3 Goal 5, Open Spaces – Wetlands. A wetland listed on the Local Wetland Inventory is located on the subject property. Future development of the site under the proposed RS-5 and RM zones will require land use review, which will include evaluation of impacts to the wetland and notification of the DSL.
- 4.4 Goal 10, Housing. The RS-5 and RM zoning district is intended primarily for low-density to medium-density residential urban development. The proposed zoning map amendment to RS-5 and RM zones will make the proposed land use consistent with the intent of the housing policies of the Comprehensive Plan.
- 4.5 Goal 14, Urbanization. The proposed RS-5 and RM zones are consistent with policies contained in the Comprehensive Plan and SAAP. The logical extension of public facilities allows development at urban level densities, consistent with Goal 14, Urbanization.
- 4.6 The intent and purpose of the proposed RS-5 and RM zoning districts best satisfies the goals and policies of the Comprehensive Plan.
- 4.7 This criterion is satisfied.

### Criterion 5

***The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan, or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study.***

#### Findings of Fact and Conclusion

- 5.1 The transportation plan relevant for the subject property is the Albany TSP and the SAAP. The site is located within the SAAP planning area, which was adopted as part of the Albany Comprehensive Plan. The TSP identifies improvements necessary to accommodate anticipated development through the year 2030.
- 5.2 OAR 660-012-0060(1) and (2) require land use regulation amendments, including amendments to zoning maps, to determine if the amendment will have a "significant effect" on transportation facilities and, if so, can it be mitigated. However, OAR 660-012-0060(9) provides that a zoning map amendment does not need to include this analysis, and the City can make a finding of no "significant effect", if:
- A zoning map amendment is consistent with the existing comprehensive plan designation and does not change the comprehensive plan map designation.
  - The City has acknowledged the TSP and the proposed zoning is consistent with the TSP; and
  - The area of the zoning map amendment was not exempted from the Transportation Planning Rule (TPR) analysis at the time of the UGB amendment. (OAR 660-012-0060(9)(a)-(c)).

The subject property complies with these criteria as follows:

- Albany's Comprehensive Plan Map within the acknowledged Albany Comprehensive Plan designates the subject property low- to medium-density residential. The proposed zoning amendment would not change the Comprehensive Plan Map designation and the RS-5 and RM zoning designation are implementing zones for the low- and medium-density residential designations.
  - The Albany TSP assumed this site would be annexed into the City and developed with low- to medium-density residential uses. The proposed RS-5 and RM zones are compatible with the long plan for low- to medium-density residential uses.
  - The subject property has been in the City's UGB since the time of adoption of the Comprehensive Plan and was not exempted from the TPR. The City can find all three (3) of these requirements are met.
- 5.3 The subject property abuts a principal arterial (Ellingson Road SE) and a minor arterial (Lochner Road SE) that are unimproved to City standards, except for two paved travel lanes.

- 5.4 Any future development application on the site can be conditioned to install required improvements, consistent with the TSP and SAAP.

### Conclusions

- 5.1 The proposed zone change to RS-5 and RM zoning districts will not modify the transportation pattern envisioned by the TSP or SAAP.
- 5.2 This criterion is satisfied.

## Overall Conclusion

As proposed and conditioned, the applications for Annexation concurrent with a Zoning Map Amendment from Linn County zone UGA-UGM-20 to Albany Single Family Residential (RS-5) and Medium Density Residential (RM) zoning designation satisfies all applicable review criteria outlined in this report.

## Staff Recommendation

With respect to the proposed Annexation, the planning commission has three options:

- Option 1: Recommend that the city council approve the Annexation request as proposed;
- Option 2: Recommend that city council approve the Annexation with conditions; or
- Option 3: Deny the Annexation request. The city council will only consider the proposal on appeal by the applicants.

**Based on the analysis in this report, staff recommends that the planning commission recommend that the city council approve the Annexation request.**

Similarly, the planning commission has three options with respect to the proposed Zoning Map amendment request:

- Option 1: Recommend that the city council approve the Zoning Map Amendment request as proposed;
- Option 2: Recommend that city council approve the Zoning Map Amendment with conditions; or
- Option 3: Deny the Zoning Map Amendment request. The city council will only consider the proposal on appeal by the applicants.

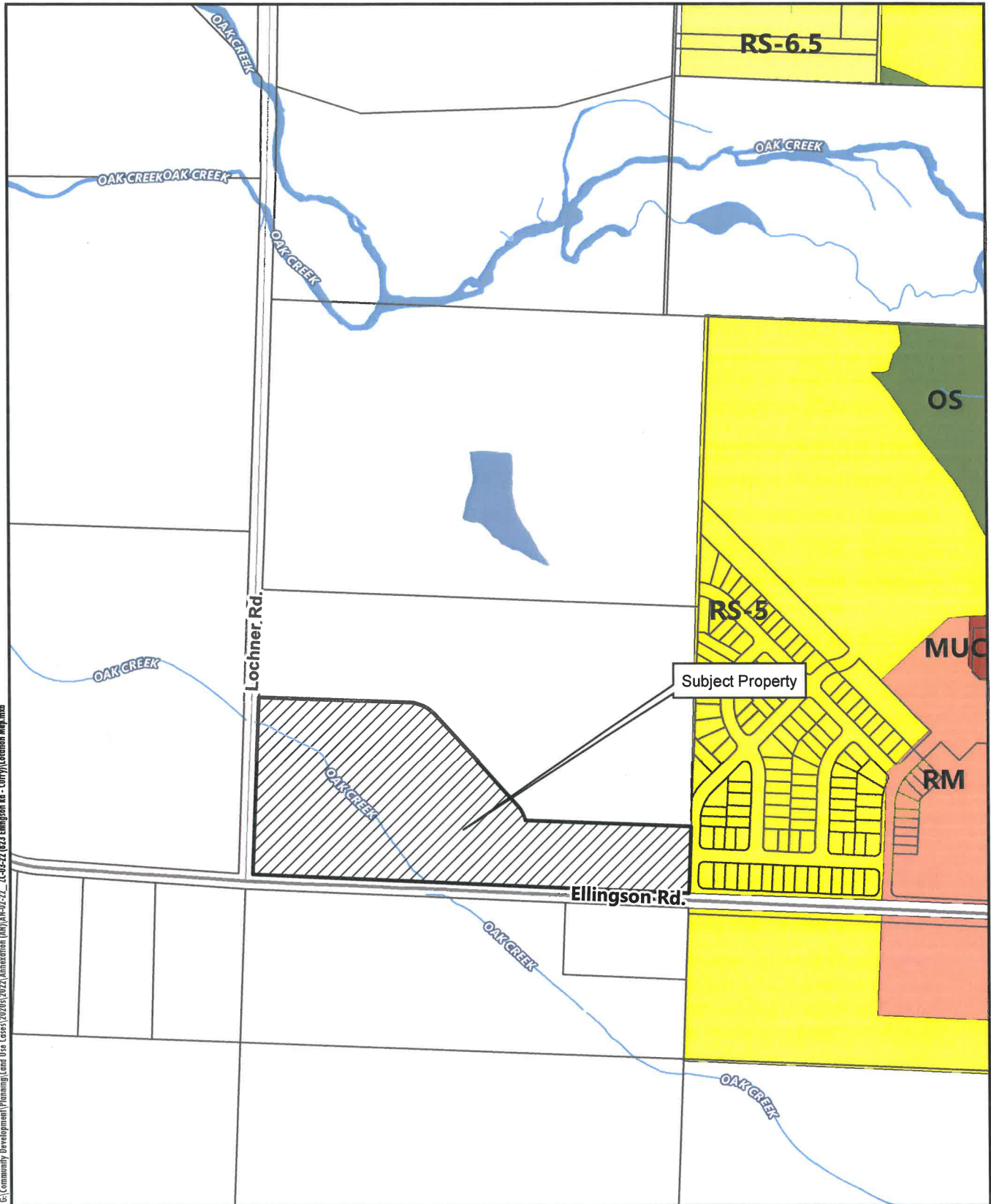
**Based on the analysis in this report, staff recommends that the planning commission recommend that the city council approve the Annexation and Zoning Map Amendment request. If the planning commission follows this recommendation, the following motion is suggested:**

*I move that the planning commission recommend that the city council approve the land use application for annexation with concurrent rezone to RS-5 and RM under planning files AN-02-22 and ZC-03-22, as described in the June 6, 2022, staff report. This motion is based on the findings and conclusions in the staff report and the findings in support of the application made by the planning commission during deliberations on this matter.*

## Attachments

- A. Location Map
- B. Comprehensive Plan Map
- C. Annexation Site Plan
- D. Legal Description
- E. Narrative





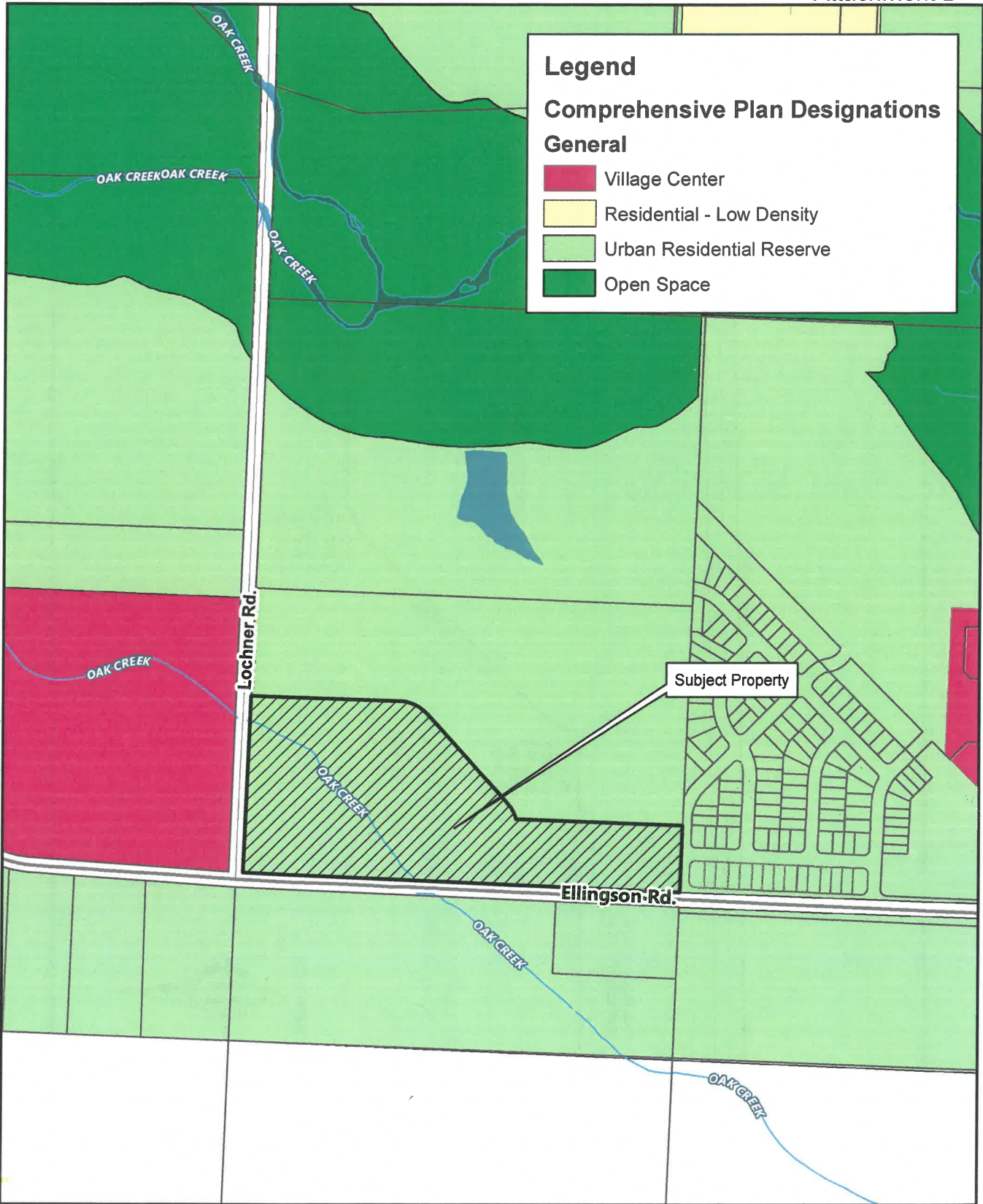
G:\Community Development\Planning\Land Use Cross\2020\2022\Intersect (AM)\M-02-22\_1C-03-22 (823 Ellingson Rd - Cum)\Location Map.mxd



**823 Ellingson Road SE**

Date: 5/16/2022 Map Source: City of Albany

Location Map



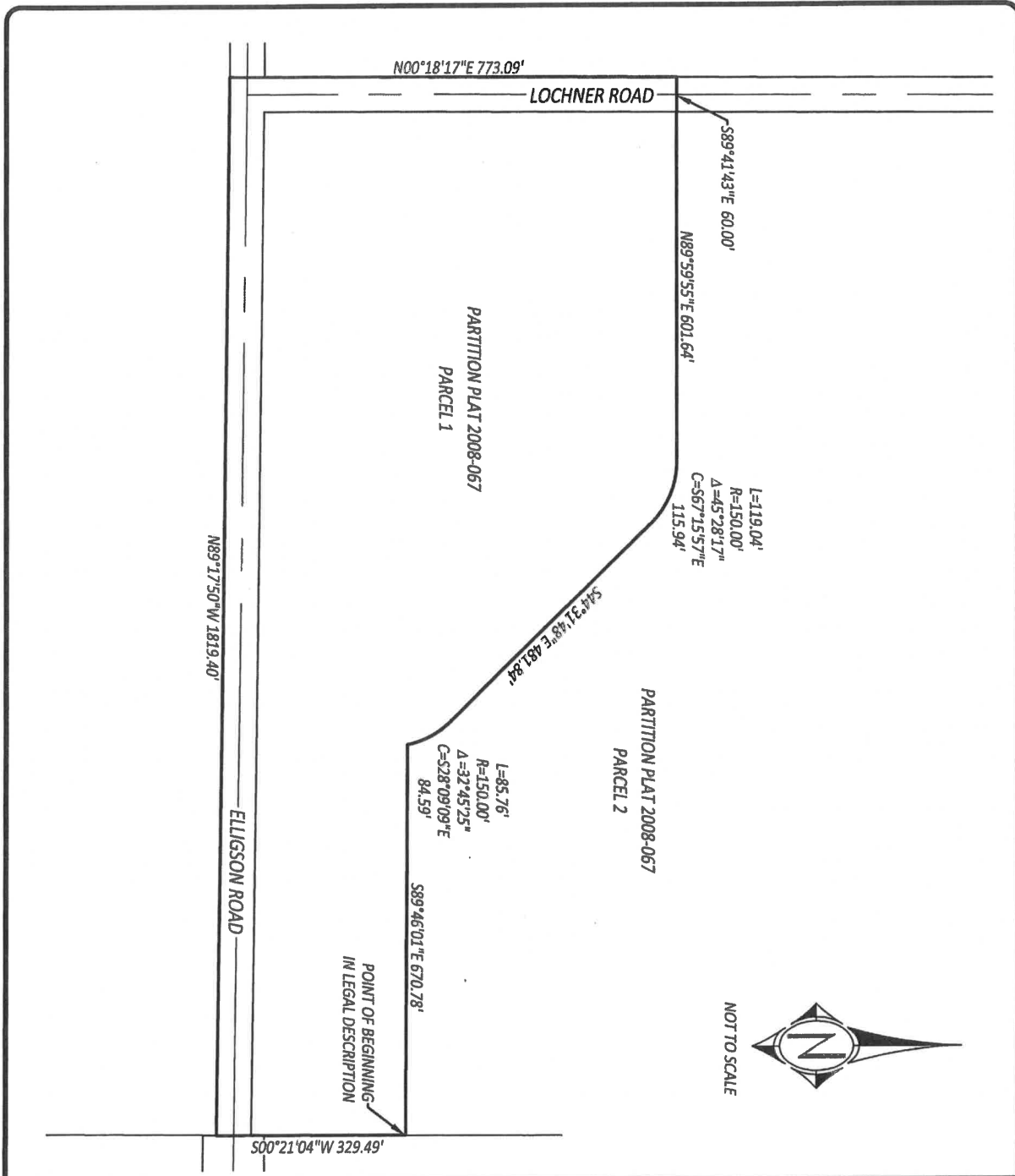
G:\Community Development\Planning\Land Use Cases\2020s\2022\Interaction (AM)\AM-02-22\_11-03-22 (823 Ellingson Rd - Coryll) Location Map C2.mxd




Date: 6/6/2022 Map Source: City of Albany

**823 Ellingson Road SE**

Location Map



PDD JOB NO.: 384-003	DATE: 02/28/22	SCALE: NTS	<b>EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION</b>
 <p>9020 SW WASHINGTON SQUARE RD SUITE 170 PORTLAND, OREGON 97223 p 503.643.8286 www.pd-grp.com</p> <p>PIONEER DESIGN GROUP, INC.</p>			<b>ANNEXATION PROPERTY EXHIBIT</b> PARCEL 1 OF PARTITION PLAT NO. 2008-067 TOGETHER WITH PORTIONS OF LOCHNER ROAD AND ELLIGSON ROAD LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, AND IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 11 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON

**CURRY PROPERTY ANNEXATION  
LEGAL DESCRIPTION**

PARCEL 1 OF PARTITION PLAT NO. 2008-067, TOGETHER WITH PORTIONS OF LOCHNER ROAD AND ELLINGSON ROAD AND LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, AND IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 11 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 1;

THENCE SOUTH 00°21'04" WEST ALONG THE EAST LINE OF SAID PARCEL 1 AND THE SOUTHERLY EXTENSION THEREOF, 329.49 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF ELLINGSON ROAD;

THENCE NORTH 89°17'50" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF ELLINGSON ROAD, 1819.40 FEET TO THE SOUTHERLY PROJECTION OF THE WEST RIGHT-OF-WAY LINE OF LOCHNER ROAD;

THENCE NORTH 00°18'17" EAST ALONG THE WEST RIGHT-OF-WAY OF LOCHNER ROAD AND THE SOUTHERLY PROJECTION THEREOF, 773.09 FEET;

THENCE LEAVING SAID WEST RIGHT-OF-WAY LINE, SOUTH 89°41'43" EAST, 60.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 1, SAID CORNER LOCATED ON THE EAST RIGHT-OF-WAY LINE OF LOCHNER ROAD;

THENCE ALONG THE NORTHERLY BOUNDARY OF SAID PARCEL 1 THE FOLLOWING (5) COURSES:

NORTH 89°59'55" EAST, 601.64 FEET TO A POINT OF CURVATURE;

THENCE 119.04 FEET ALONG THE ARC OF A 150.00 FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 45°28'17" AND A CHORD BEARING SOUTH 67°15'57" EAST, 115.94 FEET;

THENCE SOUTH 44°31'48" EAST, 481.84 FEET TO A POINT OF CURVATURE;

THENCE 85.76 FEET ALONG THE ARC OF A 150.00 FOOT RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE OF 32°45'25" AND A CHORD BEARING SOUTH 28°09'09" EAST, 84.59 FEET;

THENCE NON-TANGENT TO SAID CURVE, SOUTH 89°46'01" EAST, 670.78 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 1 AND THE POINT OF BEGINNING.

CONTAINING APPROXIMATELY 23.468 ACRES.

**CITY OF ALBANY  
Land Use Application**

**Annexation  
and  
Zone Map Amendment  
Curry Property  
Tax Lot 401, Map 11S03W29**

**March 1, 2022**

**LENNAR®**

**APPLICANT:**

Lennar Northwest, LLC  
11807 NE 99<sup>th</sup> Street, Suite 1170  
Vancouver, WA 98682  
Contact: Roseann Johnson  
Phone: 360-258-7888  
Email: [roseann.johnson@lennar.com](mailto:roseann.johnson@lennar.com)

**OWNER:**

Chad Curry  
PO Box 604  
Albany, OR 97321

**APPLICANT'S REPRESENTATIVE:**

Pioneer Design Group, Inc.  
9020 SW Washington Square Dr., Suite 170  
Portland, OR 97223  
Contact: Wayne Hayson, Planning Manager  
Phone: 503-643-8286  
Email: [whayson@pd-grp.com](mailto:whayson@pd-grp.com)

**FACT SHEET**

Project Name: Curry Property

Project Requests: Annexation to City of Albany and Zone Map Amendment

Tax Map: 11S03W29  
Tax Lot: 401, per Partition 2008-67

Site Addresses: 823 Ellingson Road SE, Albany, OR

Site Size: 20.00 acres

Location: On the north side of Ellingson Road SE, west of Henshaw Street (Henshaw Farm) and east of Lochner Road.

Comprehensive Plan: City of Albany SAAP – LDR & MDR

Zoning: Current Linn County Farm/Forest (F/F)

Proposed Zoning: City of Albany RM & RS-5

Pre-Application: September 1, 2021 (PRS-57-21)

**APPLICANT:**

Lennar Northwest, LLC  
11807 NE 99<sup>th</sup> Street, Suite 1170  
Vancouver, WA 98682  
Contact: Roseann Johnson  
Phone: 360-258-7888  
Email: [roseann.johnson@lennar.com](mailto:roseann.johnson@lennar.com)

**OWNER:**

Chad Curry  
823 Ellingson Road, SE  
Albany, OR 97321

**APPLICANT'S REPRESENTATIVE:**

Pioneer Design Group, Inc.  
9020 SW Washington Square Dr., Suite 170  
Portland, OR 97223  
Contact: Wayne Hayson, Planning Manager  
Phone: 503-643-8286  
Email: [whayson@pd-grp.com](mailto:whayson@pd-grp.com)

## INTRODUCTION

The Applicant, Lennar Northwest, INC. is the contract purchaser of the Curry Property. They wish to annex this property to the City of Albany, and have the City implement the zoning as shown on the attached plans.

## VICINITY & SITE INFORMATION

### Site Location and Surrounding Uses

The subject property is located on the north side of Ellingson Road SE, west of Henshaw Street (Henshaw Farms subdivision) and east of Lochner Road. The site address is 823 Ellingson Road, SE, Albany, OR, also identified as Tax Lot 401, Map 11S03W29.

The property to be annexed contains 23.468 acres, including the rights-of-way of Ellingson Road SE and Lochner Road SE.

This property is located with the city of Albany's South Albany Area Plan (SAAP), with land use designations of the (LDR) Low Standard Density Residential and MDR (Medium Density Residential). The property is currently zoned by Linn County a F/F (Farm/Forest). Concurrent with the proposed annexation, the proposed zoning to implement the SAAP designations is RS-5 & RM.

The subject site is located immediately to the east is Henshaw Farms, which is a 228 lot residential development, currently under construction. Henshaw Farms is within the city limits.

Properties to the north, south and west in the vicinity of the site, are all within the SAAP, but currently not within the city limits, but are within the Urban Growth Boundary. The Plan designations for these properties is LDR & MDR, the same as the Subject Site. The property immediately north of the Site is designated as a Community Park and currently owned by the City.

### Existing Uses

There currently is a home and an out building on the property. The remainder of the site is in farm use.

### Topography

The topography of the site is generally flat with the majority of the site being a wheat field. A low depression crosses the site flowing south to northwest and thence across Lochner Road SE.

### Vegetation

The majority of the site is in farm use (cultivated wheat field), but there is a grove of trees around the west side of the existing home, and another grove of trees and vegetation in the southwest corner of the property as shown on the plans.

Transportation

The subject property is located on the north side of Ellingson Road SE, west of Henshaw Street (Henshaw Farms) and east of Lochner Road. Columbus Street is located east of Henshaw Farms.

As the property is developed, local streets will be extended from Henshaw Farms to Lochner Road, consistent with the general street pattern shown on the SAAP.

Utilities

Water service is immediately available to the site from Henshaw Subdivision. Sanitary sewer will be extended to the site from the existing main approximately 2,500 feet west in Ellingson Road. Storm drainage will be treated, detained and released into existing wetlands on-site.

**COMPLIANCE WITH DEVELOPMENT CODE**

*ANNEXATIONS 2.090 Purpose. Annexation is the first step in converting land in the Albany Urban Growth Boundary to urban land. Annexation and subsequent development may provide economic and social benefits to the City of Albany through the creation of housing; business and commercial enterprise; creation of construction and permanent jobs; and expansion of the City's tax base. When annexations are properly timed, they allow for orderly expansion of City boundaries and contribute to logical extensions of public infrastructure. An ill-conceived annexation may impose burdens on the community that could outweigh the benefits. An annexation application must meet the quasi-judicial and legislative requirements of this Code and state law.*

**RESPONSE:** The following section addressed compliance with the City's Development Code for the annexation and zone map amendment.

*2.105 Annexation Agreement. The annexation applicant and the City of Albany may enter into an Annexation Agreement for the purpose of addressing the annexation-related quasi-judicial or legislative concerns of the City of Albany. The agreement may contain proffers made by the applicant to address quasi-judicial or legislative criteria or concerns. The annexation agreement may provide the basis for the City Council to determine that the proposed annexation is in the public interest. The terms of the annexation agreement may help the applicant meet applicable review criteria for annexation or enhance the public benefits that will result from the annexation. The terms of an annexation agreement may include, but are not limited to, timing of the submittal of an application for zoning, dedication of land for future public facilities, construction of public improvements, waiver of compensation claims, waiver of nexus or rough proportionality objections to future exactions, or other commitments deemed valuable to the City of Albany. The annexation agreement shall be recorded as a covenant running with the land, binding on the landowner's successors in interest.*



**RESPONSE:** The applicant is not currently proposing an Annexation Agreement,

*2.110 Review Criteria. When an annexation application has been properly initiated pursuant to ORS 222.111, 222.115, 222.125, 222.170, or 222.840, the review body shall make a quasi-judicial land use decision as to whether the proposed annexation complies with all of the following criteria: [Ord. 5947, 1/01/21]*

*(1) Eligibility Criteria. The City shall determine that property is eligible for annexation based on the following criteria:*

*(a) The property is contiguous to the existing city limits; and*

**RESPONSE:** The property is contiguous to the existing city limits along the eastern boundary of the site where it abuts Henshaw Street. This criterion is met.

*(b) The property is located within the Albany Urban Growth Boundary as established by the Albany Comprehensive Plan.*

**RESPONSE:** The property is within the Albany Urban Growth Boundary and is within the SAAP, South Albany Area Plan. This criterion is met.

*(2) Infrastructure Criteria. The City shall determine that it is timely to annex property based on the following criterion:*

*(a) An adequate level of urban services and infrastructure is available, or will be made available in a timely manner.*

*(b) As used in this section:*

*i. "Adequate level" means conforms to adopted plans and ordinances.*

*ii. "Urban services" means police, fire, and other City-provided services.*

**RESPONSE:** The City has confirmed that police and fire and other City-provided services are adequate to support development of the property. This criterion is met.

*iii. "Infrastructure" means sanitary sewer, water, storm drainage, and streets.*

**RESPONSE:** The site abuts existing public streets, and water service is immediately available within the abutting Henshaw Street. Sanitary sewer will be extended from the west to and through the site. Storm drainage will be treated, detained and release to existing wetlands. These facilities are all adequate to serve the development of this property. This criterion is met.

*iv. "Be made available in a timely manner" means that improvements needed for an adequate level of urban services and infrastructure will be provided at the time and place needed to serve the anticipated development. Improvements may be secured by a development agreement, annexation agreement, or other funding mechanism that will place the primary economic burden on the territory proposed for annexation and not on the City of Albany generally.*

**RESPONSE:** No system improvements, other than line extensions into and through the subject property are necessary to support development of the property. Therefore, the "timely manner" of provision of urban services is met.

*(3) Planning Criteria. The City shall determine that adequate planning has occurred based on the following criterion: Sufficient planning and engineering data have been provided, and necessary studies and reviews have been completed so that there are no significant unresolved issues regarding appropriate Comprehensive Plan and implementing ordinances. Examples of needed studies may include public infrastructure plans, buildable lands inventories, area refinement plans, or any task in an approved work program for Periodic Review.*

**RESPONSE:** All Comprehensive Plan and implementing ordinances have been adequately considered and adopted as part of the SAAP, South Albany Area Plan. This criterion is met.

*(4) Reasonableness Criteria. The City shall determine that it is reasonable to annex the property.*

**RESPONSE:** Based on the Response Findings presented herein and supporting plans and documents, the applicant has provided sufficient basis for the City to determine that it is reasonable to annex the property.

#### ***ZONING OF ANNEXATION TERRITORY***

*2.125 Interim Zoning. Any area annexed to the City shall retain the zoning classification of the county until changed by the City. During the period between the proclamation of annexation and application of City zoning, the City shall enforce the current zoning regulations of the county along with any conditions, limitations or restrictions applied by the county as though they were part of the Code, except that the provisions of this Code shall supersede comparable provisions of the county zoning regulations.*

*2.130 Procedure. Applying initial City zoning to annexation territory is subject to the provisions of ADC 2.700 through 2.760.*

*2.140 Concurrent Applications. The City does not have authority to zone land or to regulate development under this Code until land is annexed. However, the applicant for annexation may request zone change and development-related applications filed for concurrent review with an annexation request. As used in this section, "development-related application" includes, but is not limited to, Site Plan Review, Conditional Use, land division, or Major Variance. [Ord. 5947, 1/01/21]*

*(1) If the applicant for annexation desires concurrent, pre-annexation determinations for related land use applications, those applications shall be processed concurrently through a Type IV-Q procedure. [Ord. 5947, 1/01/21]*

**RESPONSE:** The applicant is proposing concurrent rezoning of the property, consistent with the SAAP designations of LDR and MDR. The proposed implementing zoning is RS-5 and RM. This criterion is met.

*(2) In order to be eligible for filing zone change and development-related applications for concurrent review with an annexation request, the applicant shall waive the provisions of state law and this Code that require a final decision within 120 days.*

**RESPONSE:** As part of the request for zone change, the applicant waives the 120 day limit for land use decisions. This criterion is met.

*(3) The determination on all land use applications filed for concurrent review with an annexation application shall not be final for the purposes of administrative or judicial review until the date that the annexation is proclaimed.*

**RESPONSE:** The applicant understands the zone change is specifically linked with the annexation, and that the rezoning will not be effective until the annexation is proclaimed.

*(4) All land use applications filed for concurrent review shall result in a single decision for purposes of appeal, such that all applications, excluding annexation, are subject to review on appeal if any one application is challenged.*

*(5) If any land use decision concurrent with annexation is reversed on appeal, all concurrent applications, excluding annexation, are void.*

**RESPONSE:** The applicant understands these two criteria, as they relate to the requesting concurrent annexation and rezoning.

*(6) Concurrent, development-related applications, once approved, may be modified pursuant to the procedures in ADC 1.330, or the development-related application may be withdrawn and a new application submitted for review. [Ord. 5947, 1/01/21]*

*(7) In the event land is not developed in substantial conformance with a concurrent, development-related approval and the decision is no longer valid, the City may initiate a zone change pursuant to ADC 2.710 to revert all or a portion of the annexation territory to the previous county zoning classification. Such a reversionary stipulation may be included in the annexation agreement. [Ord. 5636; 1/11/06]*

**RESPONSE:** The applicant is not requesting a concurrent development application. A separate land use application for development will be submitted once the annexation and zoning are effective. These two criteria are not applicable.

#### **ZONING MAP AMENDMENTS**

*2.700 Purpose. This section states the procedures and review criteria necessary to process an amendment to the base zones, special purpose districts, and other map symbols of the Zoning Map. The section differentiates between amendments that are processed in a quasi-judicial manner and those processed in a legislative manner. Albany Development Code, Article 2 2-18 January 14, 2022 2.710 Initiation.*

*(1) Quasi-judicial zoning map amendments may be initiated by a property owner, a representative of the owner, the Director, the Planning Commission, or the City Council.*

**RESPONSE:** This Quasi-judicial requesting zone map amendment is initiated by the Contract Purchaser of the property, with the consent of the land owner.

*(2) Legislative zoning map amendments may be initiated by the Director, Planning Commission or City Council. Citizens may request that the Planning Commission initiate a legislative amendment. This type of initiation is addressed in Section 1.260. [Ord. 5947, 1/01/21]*

*(3) Initiations by a review body are made without prejudice towards the outcome.*

**RESPONSE:** This is not a legislative map amendment. These two criteria are not applicable.

*2.740 Review Criteria. Zoning Map amendments will be approved if the Council finds that the applicant has shown that all of the following criteria are met:*

*(1) The proposed base zone is consistent with the Comprehensive Plan map designation for the entire subject area unless a Plan map amendment has also been applied for.*

**RESPONSE:** This application does not include a Plan amendment.

The applicant is proposing annexation and concurrent rezoning of the property, consistent with the SAAP designations of LDR and MDR. The proposed implementing zoning is RS-5 and RM. This criterion is met.

*(2) Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation.*

**RESPONSE:** The existing abutting streets are adequate for the planned residential use. Any necessary improvements will be provided as part of the site development. This criterion is met.

*(3) Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.*

**RESPONSE:** The existing abutting and nearby public facilities and services are adequate for the planned residential use. Any necessary improvements will be provided as part of the site development. This criterion is met.

*(4) The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.*

**RESPONSE:** The SAAP establishes the appropriate implementing zones (RS-5 & RM) as consistent with the LDR and MDR land use designations. This criterion is met.

*(5) The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study. [Ord. 5635, 1/11/06, Ord. 5764, 12/1/11]*

**RESPONSE:** This application does not include a concurrent development plan, it is limited to just annexation and rezoning.

However, this property and any future development thereof is subject to the land use and transportation provisions set forth in the SAAP. This criterion will be implemented through a subsequent development application.

*2.760 Zoning. For rezoning and annexation zoning requests, the zoning of the property shall be compatible with the Comprehensive Plan designation as provided in the Table 2.760-1, Plan Designation Zoning Matrix. Zoning other than that shown in the matrix requires approval of a Comprehensive Plan Map and/or Zoning Map amendment. [Ord. 5947, 1/01/21]*

**RESPONSE:** The SAAP establishes the appropriate implementing zones (RS-5 & RM) as consistent with the LDR and MDR land use designations. This criterion is met.

**CONCLUSION:** Based on the Response Findings presented herein, together with supporting plans and documents, the applicant has demonstrated compliance with all applicable annexation and zone map amendment approval criteria. Therefore, the applicant respectfully requests approval and the annexation and zone map amendment.